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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/714,385	11/16/2000	John R. Kochan JR.	MPP 29.1 US	9801
24628	7590	11/24/2003	EXAMINER	
WELSH & KATZ, LTD 120 S RIVERSIDE PLAZA 22ND FLOOR CHICAGO, IL 60606			VO, HIEN XUAN	
			ART UNIT	PAPER NUMBER
			2863	

DATE MAILED: 11/24/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/714,385

Applicant(s)

KOCHAN ET AL.

Examiner

Hien X. Vo

Art Unit

2863

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 09/08/2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-32 and 34-40 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-32 and 34-40 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 03 March 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

## **DETAILED ACTION**

### ***Response to Arguments***

1. The declaration under 37 CFR 1.132 filed 03/03/2003 is insufficient to overcome the rejection of claims 1-32 and 34-40 based upon 35 USC 102 (b) because the declaration under 37 CFR 1.132 can not be overcome by a specific reference applied under 35 U.S.C. 102 (b). See MPEP § 706.02(b) .
2. Applicant's arguments, filed 09/08/2003, with respect to the rejection(s) of claim(s) 1-32 and 34-40 under 102 (b) have been fully considered and are persuasive. Therefore, the final rejection has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made in view of Wissenbach et al. (U.S. Patent No. 5,633,809).

### ***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1-32, 34-40 rejected under 35 U.S.C. 103(a) as being unpatentable over Wissenbach et al. (U.S. Patent No. 5,633,809).

With respect to claim 1, Winsssenbach disclose a multi-function flow monitoring apparatus with area velocity sensor capability including a control circuitry (see e.g. Fig. 5) except for teaching a circuitry for storing a manually settable fluid flow rate parameter and time interval determination circuitry. However, Wissenbach et al. disclose a program storage memory (see e.g. col. 9, lines 26-46) and data storage memory (see e.g. col. 10, lines 27-56), a real time clock (see e.g. col. 7, lines 48-58). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to replace the program storage memory, data storage memory and real time clock means as taught by Wissenbach et al. in place of the circuitry for storing a manually settable fluid flow rate parameter and time interval determination circuitry of the present invention because the data storage memory of Wissenbach can be manually enter and settable fluid flow rate parameter by the user, via a menu screen display and keypad (see e.g. col. 10, lines 49-56) and a real time clock or the time intervals, such as on the basis of time provides the computer control means with access to current time and date information, so that events occurring during program execution may be recorded with corresponding time and date of occurrence (see e.g. col. 7, lines 48-58 and col. 10, lines 29-48).

With respect to claims 2-9, Wissenbach et al. disclose the invention as claimed including a processor, the flow determining program, instructions, a visual display, an input device for entry of at least one parameter, a key pad, a storage of a fluid (see e.g. Fig. 5).

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With respect to claims 10-19, Wissenbach et al. disclose the invention as claimed including the schedule, instructions for producing a plurality of timed fluid delivery output signal, instructions for entry and storage of a delivery schedule (see e.g. col. 9, lines 26-46), an input device coupled to the control circuitry (see e.g. col. 1, lines 21-32), a source of electrical energy, AC/DC power supply (see e.g. col. 4, lines 10-14), a replaceable battery (see e.g. col. 7, lines 16-17), an input port for receipt of a signal indicative of a depth of fluid in storage (see e.g. col. 10, lines 32-36), an audible output device and a input port for receipt of a signal indicative of a depth of fluid in storage and instructions for actuating the audible output device (see e.g. Figs. 20-30 and col. 16, lines 14-63).

With respect to claims 20-32 and 34-40, the limitations of these claims have been noted in the rejection above. They are therefore considering rejected as set forth above.

### ***Conclusion***

Claims 1-32 and 34-40 are rejected.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to ~~examiner Hien Vo~~, whose telephone number is (703)308-5253. The examiner can normally be reached on Monday-Friday from 9:30 AM-5:00 PM.


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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hien X. Vo whose telephone number is (703) 308-5253. The examiner can normally be reached on M-F (8:00-5:30) First Friday Off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Barlow can be reached on (703) 308-3126. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0956.

Hien Vo  
October 22, 2003

  
John Barlow  
Supervisory Patent Examiner  
Technology Center 2800

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